

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FRANK D. SCHEMBRE, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	No. 4:06-CV-943 (CEJ)
)	
AGR CONSTRUCTION COMPANY and)	
ABDF CONSTRUCTION, LLC,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court on plaintiffs' amended motion for attorneys' fees and costs incurred during post-judgment collection efforts. Defendants have not filed a response and the time allowed for doing so has expired.

On July 3, 2007, the Court entered judgment in favor of plaintiffs in this action to collect delinquent fringe benefit contributions pursuant to the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. §§ 1001 *et seq.*, and the Labor Relations Management Act of 1947 (LMRA), 29 U.S.C. §§ 141 *et seq.* On October 3, 2007, the Court granted plaintiffs' motion for pre-judgment attorneys' fees and costs in the amount of \$6,259.95. Plaintiffs seek an additional \$5,019.66 for fees and costs incurred in attempting to collect the judgment.¹

¹A review of docket entries indicates that, after judgment was entered, plaintiffs deposed a corporate officer, filed a motion to compel, and filed applications for writs of garnishment.

ERISA provides that employers shall make contributions when required by the terms of a collective bargaining agreement. 29 U.S.C. § 1145. Employers who fail to make the required contributions may be liable for attorneys' fees and costs. 29 U.S.C. § 1132(g)(2)(D). There is nothing in the statute that precludes the recovery of post-judgment attorneys' fees and expenses. Sheet Metal Workers Health & Welfare Trust Fund v. Big D Serv. Co., 876 F.2d 852, 854 (10th Cir. 1989).

Plaintiffs submit the affidavit of attorney Michael A. Evans. Mr. Evans states that his firm's standard billing rate for delinquency cases is \$160.00 per hour for work performed by partners; \$150.00 per hour for work performed by associates; and \$75.00 per hour for work performed by legal assistants. Mr. Evans also states that, in connection with post-judgment proceedings in this matter, partners performed 7.9 hours of work (\$1,264.00); associates performed 15 hours of work (\$2,250.00); and legal assistants performed 12.6 hours of work (\$945.00).

The Court has reviewed the billing records and determines that plaintiffs are entitled to attorneys' fees in the amount of \$4,459.00, plus costs in the amount of \$127.20 for fees of the court reporter and \$433.46 for fees of the U.S. Marshals Service, for a total of \$5,019.66.

Accordingly,

IT IS HEREBY ORDERED that plaintiffs' amended motion for post-judgment attorneys' fees and costs in the amount of \$5,019.66 [Doc. #70] is **granted**.

IT IS FURTHER ORDERED that plaintiff's motion for post-judgment attorneys' fees and costs [Doc. #69] is **denied as moot**.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 12th day of May, 2008.